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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CLINTON BROWN,
Plaintiff,

v.

CLARK R. TAYLOR, AICP, THE LOS
ANGELES COUNTY DEPARTMENT
OF REGIONAL PLANNING,
Defendant.

No. 2:22-cv-09203-MEMF-KS

**Plaintiff's Reply in Support of Motion to Alter
or Amend Judgment**

See ECF No. 204

Judge: Honorable Maame Ewusi-Mensah
Frimpong

Chief Magistrate Judge: Karen L. Stevenson

Date: December 18, 2025

Time: 10:00 A.M.

Place: Courtroom 8B

NOTICE TO THE COURT, the County's Opposition confirms rather than cures the central defect in the judgment: summary judgment was granted without identifying what use, if any, remains for Plaintiff's land. The County asserts that Plaintiff merely "regurgitates his string of arguments which have previously been heard and decided on by this Court" but fails to confront that this threshold inquiry is mandated by Supreme Court precedent *before* any takings analysis can be lawfully applied. *See MacDonald v. County of Yolo*, 477 U.S. 340, 350–51 (1986) ("no answer is possible until a court knows what use, if any, may be made of the affected property"). No such use has ever been identified. That omission is not a close call — it is clear legal error. By the County's own standard, the judgment is therefore "dead wrong." *See* ECF No. 206 at 5.

Plaintiff's Rule 59(e) motion is therefore not an effort to relitigate, but the only remaining procedural vehicle in the District Court to ensure application of controlling precedent and the correct legal standard. The prejudice is compounded because the County's Opposition cites *no* controlling

1 takings authority and identifies *no* lawful use of Plaintiff's land. *See* ECF No. 206 at 1–7. This
2 omission leaves nothing of substance to rebut—only procedural arguments—and all but guarantees
3 resolution on the papers under L.R. 7-15, depriving the Court of the benefit of meaningful adversarial
4 presentation of the controlling legal standard. After all, a Rule 59(e) motion is “tightly tied to the
5 underlying judgment,” not merely to the procedural mechanism itself. The County's silence should
6 not be permitted to foreclose full adversarial briefing and oral argument on the controlling legal
7 standard. In any event, the omission is dispositive here and on appeal: at minimum it constitutes
8 forfeiture—the failure to timely assert a position—or, if deliberate, waiver—the intentional
9 relinquishment of a known right. (citation omitted). Under either doctrine, the County cannot revive
10 arguments it declined to raise. In sum, this underscores why the judgment must be vacated and the
11 matter set for trial.

12 LEGAL STANDARD

13 A Rule 59(e) motion “suspends the finality of the original judgment.” *See FCC v. League of*
14 *Women Voters of Cal.*, 468 U.S. 364, 373, n. 10 (1984). Rule 59(e) allows a Court to alter or amend a
15 judgment (1) necessary to correct manifest errors of law or fact upon which the judgment rests; (2)
16 necessary to present newly discovered or previously unavailable evidence; (3) necessary to prevent
17 manifest injustice; or (4) the amendment is justified by an intervening change in controlling law. *See*
18 *Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011). Rule 59(e) does not identify “specific
19 grounds” for relief, and thus “the district court enjoys considerable discretion in granting or denying
20 the motion.” *See McDowell v. Calderon*, 197 F.3d 1253, 1255 n.1 (9th Cir. 1999) (en banc). It is also
21 appropriate where a court “committed clear error.” *See Kona Enters., Inc. v. Estate of Bishop*, 229
22 F.3d 877, 890 (9th Cir. 2000).

23 The Takings Clause itself compels the “finality” rule: it is “compelled by the very nature of the
24 inquiry required by the Just Compensation Clause,” because the factors applied in deciding a takings
25 claim “simply cannot be evaluated until the [County] has arrived at a final, definitive position
26 regarding how it will apply the regulations at issue to the particular land in question.” *See Williamson*
27 *County Regional Planning Comm'n v. Hamilton Bank of Johnson City*, 473 U. S. 172, 190-191 (1985)
28 overruled on other grounds by *Knick v. Township of Scott*, 588 U.S. 180, 205 (2019).

DISCUSSION

I. THE COUNTY MISSTATES THE RULE 59(e) STANDARD.

The County asserts Rule 59(e) relief is a “high hurdle” and should be “used sparingly.” Plaintiff agrees. But this is the rare case where the judgment rests on clear error of law and works a manifest injustice. The Ninth Circuit has long held that Rule 59(e) is proper where a court “committed clear error” or to “prevent manifest injustice,” *supra*. That is precisely the situation here.

First, the County dismisses Plaintiff’s argument as “personal beliefs” and claim Plaintiff “fails to identify any clear or manifest error.” *See* ECF No. 206 at 2. That is incorrect. Plaintiff’s motion is not grounded in personal views but in a century of controlling Supreme Court precedent. Beginning with *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922), and reaffirmed in *MacDonald v. County of Yolo*, 477 U.S. 340, 350–51 (1986), *Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1019 (1992), *Palazzolo v. Rhode Island*, 533 U.S. 606, 630 (2001), and its progeny, the Court has *uniformly* held that regulatory takings analysis must begin by determining what uses, if any, remain. The Court skipped that mandatory threshold inquiry. Thus, applying the wrong legal standard is the definition of clear error under Rule 59(e).

Second, the County contends that Plaintiff “fails to proffer any newly discovered evidence or previously unavailable evidence” and therefore cannot establish Rule 59(e) relief. *See* ECF No. 206 at 2. But Rule 59(e) grounds are disjunctive, not conjunctive. A movant need only show one valid ground — clear error, manifest injustice, newly discovered evidence, or an intervening change in law. *See Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011). Clear error of law is independently sufficient. The Court’s omission to make the threshold “what uses remain” finding before applying *Lucas* or *Penn Central* is the textbook definition of clear error. That alone requires vacatur, regardless of whether new evidence exists.

Third, the County argues: “To the extent Plaintiff attempts to use a Rule 59(e) motion as a method to force this Court to provide further clarification to its prior ruling and judgment, it is improper.” *See* ECF No. 206 at 6. What is improper is that the County’s Opposition advances only procedural arguments while failing to cite *any* controlling case law addressing the Takings Clause legal standard. A Rule 59(e) motion is not a vehicle for collateral arguments; it is “tightly tied to the

1 underlying judgment.” *See Banister v. Davis*, 590 U.S. 504, 508 (2020). Plaintiff’s motion squarely
2 challenges the Court’s application of the wrong legal standard to his Takings claim. Correcting that
3 legal error is precisely what Rule 59(e) authorizes.

4 And while the Court has discretion whether to grant relief under Rule 59(e), it has no discretion
5 to apply the incorrect legal standard. The Fifth Amendment requires a determination of what lawful
6 uses remain *before* any takings claim can be resolved. *See Williamson County Regional Planning*
7 *Comm’n v. Hamilton Bank of Johnson City*, 473 U. S. 172, 190-191 (1985) overruled on other grounds
8 by *Knick v. Township of Scott*, 588 U.S. 180, 205 (2019). Entering judgment absent the threshold
9 “what uses remain” finding is the textbook definition of clear legal error, and Rule 59(e) exists to
10 correct it. *See* ECF No. 204

11 **II. THE COUNTY IDENTIFIES NO AUTHORITY THAT ALLOWS A TAKINGS**
12 **CLAIM TO BE DECIDED BEFORE DETERMINING WHAT USE REMAINS.**

13 The County claims “numerous cases within this District allow dismissal with prejudice,” but
14 cites none. *See* ECF No. 206 at 7. It likewise claims that “Despite the numerous cases contradicting
15 Plaintiff’s position...” but cites none. *See* ECF No. 206 at 6. Plaintiff, by contrast, has cited controlling
16 precedent to the contrary: *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922); *Lucas v. S.C.*
17 *Coastal Council*, 505 U.S. 1003, 1019 (1992); *Palazzolo v. Rhode Island*, 533 U.S. 606, 630 (2001);
18 *Williamson County Regional Planning Comm’n v. Hamilton Bank of Johnson City*, 473 U. S. 172, 190-
19 191 (1985) overruled on other grounds by *Knick v. Township of Scott*, 588 U.S. 180, 205 (2019);
20 *Suitum v. Tahoe Reg’l Planning Agency*, 520 U.S. 725, 734 (1997), among a litany of others. In each,
21 the Supreme Court emphasized the necessity of knowing what uses, if any, remain *before* applying
22 takings doctrine. The County cites *no* authority excusing that requirement, nor could they.

23 In any event, the Ninth Circuit authorities they may be alluding to—such as *Colony Cove*,
24 *Guggenheim*, and *Equity Lifestyle*—are readily distinguishable. Each of those cases applied *Penn*
25 *Central* only *after* identifying the permissible uses that remained, whether through rent control
26 schemes, mobile home park operations, *or other established uses*. Here, by contrast, the property at
27 issue is simply a “*parcel of land*.” *See* ECF No. 165 at 11. No lawful, affirmative use has *ever* been
28

1 identified. Without that threshold determination, *neither* the *Lucas* categorical test nor the *Penn*
2 *Central* balancing test can lawfully be applied.

3 Over a century of Supreme Court precedent confirms this sequence of analysis. This is not a
4 matter of “Plaintiff’s beliefs” or dissatisfaction with the Court’s judgment; it is the application of
5 binding precedent that this Court is required to follow. Plaintiff’s motion does not ask the Court to
6 “change its mind” about the outcome, but to apply the correct legal standard—one that will be
7 reviewed *de novo* on appeal. If there is any doubt, this is exactly the circumstance Rule 59(e) was
8 designed for: to correct clear legal error before appellate review, thereby conserving judicial resources.

9 **III. SUMMARY JUDGMENT IS IMPROPER WHERE NO REMAINING USE IS**
10 **IDENTIFIED.**

11 The County does not dispute:

- 12 1. The record identifies no permissible use of Plaintiff’s land at the time of the taking.¹
- 13 2. The County’s evidence confirms that all structures are prohibited, and direct vehicular
14 access is denied.
- 15 3. The Court applied *Penn Central* without resolving whether any use remained.

16 This is dispositive. By the Court’s own acknowledgment, the “government-imposed
17 restrictions” foreclose construction of any residential or commercial structures. *See* ECF Nos. 165 at
18 26 & 200 at 12. That places Plaintiff’s claim squarely under *Lucas*’s categorical framework—and at
19

20 ¹ The record confirms that no lawful, economically viable use has been identified: (a) the 1987 Tract Map “dedicate[s] to
21 the County ... the right to prohibit construction of residential and/or commercial structures within Lot 3” (ECF No. 165 at
22 12); (b) Ordinance No. 2002-0062Z zones the parcel O-S, requiring it to “remain essentially unimproved” and prohibiting
23 buildings or grading “except for specified uses” (*Id.* at 12–13); (c) County Code § 22.140.510(C)(5)(a) bars “ground-
24 mounted utility-scale solar energy facilities” within SEAs—the very use Plaintiff applied for (*Id.* at 13); and (d) this Court
itself acknowledged that the designation “would appear logically to prohibit residential living or the building of structures
on the subject property.” (ECF No. 200 at 12). Taken together, the County asserts that all residential, commercial, and
utility-scale solar structures are prohibited, and neither Plaintiff, the County, the Court, nor the record has identified a
single affirmative use that remains.

25 The absence of any permissible use is underscored in three further respects. First, Defendant’s own counsel conceded at a
26 hearing: “I’m not claiming that’s the only restriction.” THE COURT: “Okay.” COUNTY: “But that’s the only restriction
27 that ... has been brought to matter.” *See* Tr. of Proceedings, ECF No. 80 at 36–37 (C.D. Cal. Sept. 21, 2023). Second, the
Court assumed as true that the County does not allow Plaintiff even to “erect a large sign akin to a billboard on the Agoura
28 Property.” *See* ECF No. 145 at 5 n.6. And finally, the Court expressly acknowledged that “the County does not allow
Brown to live on or develop housing on the Agoura Property,” which it found “essentially moots” Plaintiff’s request for
clarification of that use. *See id.* at 6 & n.9. How many no’s does it take to get a yes? Under the Takings Clause, if every
identified use is no, the Constitution supplies the yes: just compensation.

1 minimum creates a genuine dispute of material fact for the jury. *See Del Monte Dunes v. City of*
2 *Monterey*, 526 U.S. 687, 720–21 (1999). Yet summary judgment was nevertheless granted, contrary
3 to Rule 56(a), which bars judgment where any genuine dispute of material fact exists.

4 **IV. A JUDGMENT THAT LEAVES PLAINTIFF WITH NO USE & NO JUST**
5 **COMPENSATION IS MANIFEST INJUSTICE.**

6 The right to build on one’s own land is not a discretionary benefit; it is a fundamental incident
7 of ownership. *See Nollan v. Cal. Coastal Comm’n*, 483 U.S. 825, 834 n.2 (1987). To uphold summary
8 judgment where no uses are identified is to nullify the Takings Clause altogether. That outcome
9 “shocks the conscience” and constitutes manifest injustice. Thus, a Court decision that leaves a
10 property owner with no identified lawful uses and no remedy is the definition of manifest injustice.

11 Even assuming *arguendo* that the government-imposed restrictions recorded in 1987 are
12 constitutional as applied to Plaintiff in 2021, that still does not resolve the threshold inquiry: what use
13 remains. The Takings Clause requires more than a catalogue of prohibitions; it requires an affirmative
14 determination of the uses left for the land. Without that finding, the Court cannot lawfully apply the
15 Fifth Amendment Takings Clause legal standard. *See Williamson County*, 473 U.S. at 190–91. And
16 because no lawful use has been identified, a material fact necessarily remains in dispute—what uses,
17 if any, are left. That unresolved fact alone defeats summary judgment. *See* Rule 56(a) (summary
18 judgment is improper where “there is a genuine dispute as to *any material fact*”).²

19 The Court’s discretion is broad, but justice here is clear. Otherwise, a property owner such as
20 Plaintiff enters Federal court with no lawful uses and leaves in the same position—an outcome that
21 amounts to manifest injustice. Real property rights are fundamental in the United States and cannot be
22 treated as fungible commodities.³ It would be extraordinary—and fundamentally inconsistent with the
23 _____

24 ² Thus, the incorrect legal standard the Court applied to the Takings Clause claim would ensure that no plaintiff could *ever*
25 prevail on a regulatory takings claim. By skipping the threshold inquiry into what uses remain and relying solely on
26 prohibitions, the Court has adopted a framework that predetermines failure for *every* property owner. That approach is
27 contrary to the Supreme Court’s teachings since *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922), and renders
28 the Takings Clause a nullity. This is not only clear legal error; it is manifest injustice. Rule 59(e) exists precisely to correct
such outcomes and to ensure that constitutional rights are not reduced to empty promises. *See* 42 U.S.C. § 1983.

³ “Second, it is far from clear that *Lucas*’s categorical approach extends beyond real property to intangible personal
property. *Lucas* involved a land-use regulation and the Supreme Court framed the inquiry as whether the governmental

1 Takings Clause—to uphold a framework where the County may prohibit every identifiable use of land
2 without ever identifying what, if any, use remains. That’s what happened here. Rule 59(e) exists for
3 exactly this purpose: to correct clear legal error before it results in manifest injustice.

4 **CONCLUSION**

5 For these reasons, and those stated in Plaintiff’s Motion (ECF No. 204), this Court should alter
6 or amend the judgment under Rule 59(e), vacate the prior judgment, deny the County’s motion for
7 summary judgment, and set this matter for trial. *See* ECF No. 204-1.

8
9 Dated: October 2, 2025

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13 CC: All Counsel of Record (via ECF) on October 2, 2025
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25 action ‘denies an owner economically viable use *of his land*.’ 505 U.S. at 1016 (emphasis added). Indeed, *Lucas* explicitly
26 distinguished land from personal property, explaining that ‘in the case of personal property, by reason of the State’s
27 traditionally high degree of control over commercial dealings, [a plaintiff] ought to be aware of the possibility that new
28 regulation might even render his property economically worthless.’ *Id.* at 1027–28. Third, even if *Lucas*’s categorical
approach were applicable to intangible personal property, it is far from clear that every disclosure made under the public-
interest exception will ‘den[y] *all* economically beneficial...use’ of a manufacturer’s trade secret in all cases. 505 U.S. at
1015 (emphasis added); *see also Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg’l Plan. Agency*, 535 U.S. 302, 330 (2002)
(‘Anything less than a “complete elimination of value,” or a “total loss,” ...require[s] the kind of analysis applied in *Penn*
Central.’ (quoting *Lucas*, 505 U.S. at 1019 n.8)).” *PhRMA v. Stolft*, No. 24-1570, slip op. at 64-65 (9th Cir. Aug. 26, 2025).
Here again, there is no finding of any economic use of Plaintiff’s *land*. *Compare* ECF No. 198 at 1-2.